

**PURPOSE:**

To adopt reasonable rules and regulations governing alcoholic beverages within the Town which are not in conflict with any section of the Massachusetts General Laws. Upon adoption of these rules and regulations, Licensees are still responsible for adhering to all Massachusetts General Laws regarding the service of alcohol regardless of whether the section of the General Laws is referenced in these rules and regulations.

**POLICY:**

The Board of Selectmen may grant one-day wine and malt to for-profits and non-profit and one-day All-Alcoholic License to a nonprofit entity or certain degree granting educational institutions pursuant to M.G.L. Chapter 138, § 14.

**APPLICABILITY**

This policy applies to for-profits, non-profits, and certain degree granting educational institutions.

**IMPLEMENTATION PROCEDURE:**

1. Types of Licenses: There are two kinds of Special Alcohol Licenses:

- All Alcoholic Beverages: Special license for the sale of all alcoholic beverages issued by the Board of Selectmen to a person acting on behalf of a non-profit organization.
- Wine and Malt Beverages: special license for the sale of wine and/or malt beverages issued by the Board of Selectmen to a person conducting an activity or enterprise for profit.

Alcohol served at events held outside of a private residence is presumed to result in a sale of alcohol. As such, a One-Day Special License under G.L. c. 138, § 14 shall be required for such events, unless such event falls within an exception stated herein.

The applicant must pay the appropriate fee as currently approved by the Selectmen, at the time of filing the application and must be present at the Selectmen's meeting to respond to any question.

2. Exemptions

The following events shall not require a Special License:

2.1.1 Private Residents

Events held at a private residence by a private resident do not require a Special License.

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Events held by private residents, outside of their private residence, do not require a Special License where: 1) the event is by invitation only and a list is maintained of the invitees and attendees; 2) money is not exchanged for alcoholic beverages; 3) tickets are not sold for admittance to the event; 4) a donation is not required or solicited in connection with the event; 5) an entrance fee is not charged for the event.

### **2.1.2 Businesses, Charities and Organizations**

Events held by a business, charity or organization shall require a Special License unless: 1) the event is by invitation only and a list is maintained of the invitees and attendees; 2) money is not exchanged for alcoholic beverages; 3) tickets are not sold for admittance to the event; 4) a donation is not required or solicited in connection with the event; 5) an entrance fee is not charged for the event.

### **3. Special One-Day Licenses in General**

Special One-Day Licenses may be issued only to a natural person or a natural person acting on behalf of a business, organization or charity. The person named on the Special License must sign the application for the license. The person named on the license is responsible for management of the license and shall be on the premises for the entire event. The person named on the license shall be a United States citizen.

Each Licensee or Underlying Business may only be issued a maximum of thirty (30) Special Licenses in any calendar year, per location. When there is an Underlying Business hosting an event, the Board of Selectmen will consider the number of Special Licenses obtained by the Underlying Business and not the individual who signed the application. The purpose of this is to prevent an Underlying Business from circumventing the thirty (30) per year rule. Accordingly, the Board of Selectmen may consider related persons or entities to be a single entity for the purposes of this requirement. A business, charity or organization which maintains multiple locations where events are held may receive thirty (30) Special Licenses per calendar year for each individual location.

### **4. Requirements**

An application for a Special or “one day” license for the sale of alcoholic beverages must be submitted at least **sixty days** prior to the event.

Prior to submitting an application for one-day liquor license, the licensee must contact the Upton Police Department at (508) 529-3200 to determine the requirements for police coverage. The Police Department representative must indicate requirements for Detail Officers(s) and sign the application form.

A police officer or officers shall be hired by the licensee, if in the opinion of the Board of Selectmen or the Chief of Police such officer is necessary to maintain order within, and to direct or control vehicular and foot traffic in the areas of the activity or entertainment and to enforce the General Laws and local by-laws.

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Payment for all police details for licensed premises will be invoiced by the Police Department payable by check to the Town of Upton.

The Police Department or the Licensing Authority or its agents should check the license at every one-day function in order to make certain that its provisions are being adequately enforced.

Events that are anticipated to have more than 100 patrons in a building and entertainment may be required under State Law to have an Events Manager on the premises for the event. Certification for this is issued by the State Fire Marshall as called for under 527 CMR 10.1.3(2)(d). Applicants that indicate on the application that their event will exceed these thresholds may be referred to the Fire Department for follow up.

A copy of the license shall be prominently posted and available for inspection during the hours and at the location for which it is issued. All licensees shall cooperate fully with the Board of Selectmen and their agents (police officers) when they are on the premises investigating complaints or making routine inspections.

The last drink must be served before the closing hour. All glasses and bottles must be cleared from the licensed area by fifteen (15) minutes after the closing hour. All customers must have left the premises by thirty (30) minutes after the closing hour. Any licensee and his/her employees shall not be prohibited from being upon such premises at any time for the purpose of cleaning, making emergency repairs to, or providing security for, such premises or preparing food for the day's business or opening or closing the business in an orderly manner. They may NOT drink after the closing hour.

Objectionable noise from amplifying systems of any kind is not permitted. Lack of cooperation in this regard will be grounds for Police Department termination of all or limited activities at any time and will have a bearing on any future permits.

A copy of the license regulations as attached to this policy shall be given to each applicant for a one-day liquor license.

### 5. Hold Harmless Agreement and Insurance

As a condition of granting a license, the Town requires that the license holder execute a hold harmless agreement. The Local Licensing Authority may also require the license holder to purchase a liquor liability policy; with limits of \$50/100/100 (*\$50,000 any one incident/\$100,000 total any one incident/\$100,000 aggregate*) for events with a maximum number of expected attendees not to exceed 249; and a liquor liability policy with limits of \$100/100/200 (*\$100,000 any one incident/\$200,000 total any one incident/\$200,000 aggregate*) for events with a number of expected attendees exceeding 249.

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### **6. Fees Per Event**

There is a charge of \$25.00 for a license issued to a non-profit entity, and \$50.00 for a license to a for-profit entity.

### **7. Storage of Alcohol**

No alcohol may be stored on any unlicensed premises. For special events requiring a Special License, alcohol must be delivered the day of the event and removed from the premises after the event, by the expiration of the Special License. All Licensees must comply with all laws and regulations regarding the transportation of alcoholic beverages.

Licensees must request a special license for more than one day if they are unable to bring and remove the liquor/wine/beer from the premises on the day of the event.

### **8. Posting**

The Licensee is required to post the Special Permit in a conspicuous location during the event.

### **9. Hours**

No Licensee may sell or deliver any alcoholic beverage between the hours of 2:00 a.m. and 8:00 a.m.

The Board of Selectmen has the authority to dictate the specific hours and terms of sale and service of alcohol under a Special License.

### **10. Issuance, Suspension, Cancellation, or Revocation**

The Board of Selectmen has the authority to refuse to issue or reissue a Special License, if the Licensee fails to comply with state or local regulations or any reasonable requirements imposed by the Board of Selectmen in the issuance of the Special License.

The Board of Selectmen has the authority to suspend, cancel or revoke a Special License, after a hearing, if the Licensee fails to comply with state or local regulations or any reasonable requirements imposed by the Board of Selectmen in the issuance of the Special License.

### **DEFINITION**

When the subject matter requires a precise understanding of terms, include them here.

### **REGULATORY / STATUTORY REFERENCES:**

Massachusetts General Laws Chapter 138, all relevant sections.

## LIQUOR LICENSE POLICY

### **APPROVED BY:**

*Board of Selectmen, Chair:* Kenneth E. Picard \_\_\_\_\_

*Board of Selectmen:* James A. Brochu \_\_\_\_\_

*Board of Selectmen:* Robert J. Fleming \_\_\_\_\_

**Original date:** ..... September 18, 2012

**Revised dates:** .....

### **Attachment A – ABCC Regulations**

The individual purchasing/providing the liquor and servers of the liquor must request the license.

Only non-profits may apply for an All Alcohol Special License. For-profits may only apply for a Wine and Malt Special License. No 3rd Party Special Licenses can be issued.

No one under 21 years of age may be served alcoholic beverages. Licensees are responsible for ensuring that minors are not being served, or consuming, alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by any other patron.

All servers and wait staff clearing up bottles, glasses, serving, handling, etc. of alcoholic beverages must be at least 18 years of age.

No licensee or employee of a licensee shall deliver more than two drinks to one person at one time (204 CMR 4.03(1)(b)).

Anyone holding a Special License must purchase alcoholic beverages from a licensed wholesaler/importer, manufacturer, farmer-winery, farmer-brewery or special permit holder. Purchasing alcoholic beverages from a package store is prohibited by the ABCC. *A list of authorized sources to purchase alcohol can be found on the ABCC website [www.mass.gov/abcc](http://www.mass.gov/abcc) or you can contact the ABCC directly at (617) 727-3040.*

A Special License shall not be granted to any applicant while their application for a license under M.G.L. c. 138, § 12 (Restaurant) is pending before the licensing authorities.

Each for-profit or non-profit may be issued up to thirty (30) licenses per calendar year.

Not more than one license can be issued for a premise at one time.

The ABCC prohibits liquor sales between the hours of 2:00 AM and 8:00 AM.

A Special License can be issued for indoor and/or outdoor events.